

HOUSE BILL 3643

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 48  
and Title 61, relative to business organizations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 48-24-103, is amended by inserting the following language as a new subsection (b) and by redesignating subsequent subsections accordingly:

(b) The secretary of state shall file the articles of dissolution of the corporation if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (a); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the corporation indicates in the articles of dissolution that the corporation is converting to another entity.

SECTION 2. Tennessee Code Annotated, Section 48-24-104, is amended by inserting the following language as a new subsection (d) and by redesignating subsequent subsections accordingly:

(d) The secretary of state shall file the articles of revocation of dissolution of the corporation if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (c); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 3. Tennessee Code Annotated, Section 48-25-103, is amended by inserting the following language as a new subsection (c):

(c) The secretary of state shall file the certificate of authority of the foreign corporation if the secretary of state finds that the foreign corporation:

(1) Complies with the provisions of subsections (a) and (b); and

(2) That the application is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 4. Tennessee Code Annotated, Section 48-64-104, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)

(1) The secretary of state shall file the articles of dissolution if the secretary of state finds that the articles:

(A) Comply with the provisions of subsection (a); and

(B) Are accompanied by a certificate issued by the commissioner of revenue certifying that the corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

(2) Unless a delayed effective date is specified in the articles of dissolution, a corporation is dissolved when the articles of dissolution are filed.

SECTION 5. Tennessee Code Annotated, Section 48-64-105, is amended by is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d)

(1) The secretary of state shall file the articles of revocation of dissolution if the secretary of state finds that the articles:

(A) Comply with the provisions of subsection (c); and

(B) Are accompanied by a certificate issued by the commissioner of revenue certifying that the corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

(2) Revocation of dissolution is effective when the articles of revocation of dissolution are filed.

SECTION 6. Tennessee Code Annotated, Section 48-65-303(a), is amended by inserting the following language as a new subdivision (2) and by renumbering subsequent subdivisions accordingly:

(2) Submit to the secretary of state a certificate issued by the commissioner of revenue certifying that the foreign corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state;

SECTION 7. Tennessee Code Annotated, Section 48-245-201, is amended by deleting subsection (c) in its entirety and by substituting instead the following language:

(c) The secretary of state shall file the articles of termination of existence of the LLC if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (b); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the LLC

indicates in the articles of termination of existence that the LLC is converting to another entity.

SECTION 8. Tennessee Code Annotated, Section 48-245-303(a), is amended by deleting inserting the following language as a new subdivision (2) and by renumbering subsequent subdivisions accordingly:

(2) Submit to the secretary of state a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state;

SECTION 9. Tennessee Code Annotated, Section 48-245-305, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)

(1) The secretary of state shall file the articles of termination following administrative dissolution if the secretary of state finds that the articles:

(A) Comply with the provisions of subsection (a); and

(B) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

(2) Upon such filing, the existence of the LLC shall cease, except that the termination of LLC existence shall not take away or impair any remedy to or against the LLC or its members, governors, or managers for any right or claim existing or any liability incurred, prior to such termination. Any such action or proceeding by or against the LLC may be prosecuted or defended by the LLC in its LLC name. The members, governors or managers shall have the power to take such LLC or other action as may be appropriate to protect such remedy, right, or claim.

SECTION 10. Tennessee Code Annotated, Section 48-245-503, is amended by inserting the following language as a new subsection (c):

(c) The secretary of state shall file the articles of termination if the secretary of state finds that the articles of termination:

(1) Comply with the provisions of subsection (b); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 11. Tennessee Code Annotated, Section 48-245-601, is amended by deleting subdivision (d) and by substituting instead the following:

(d)

(1) If a dissolved LLC is being wound up and terminated by being merged into a successor organization under §48-245-501(a), and the plan of merger has been approved under § 48-244-102(a), then the dissolution may be revoked under this section only after the plan of merger has been properly abandoned under § 48-244-101(b); and

(2) The articles of revocation of dissolution are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 12. Tennessee Code Annotated, Section 48-245-601, is amended by inserting the following language as a new subsection (e):

(e) Except as otherwise provided by subsection (d), the secretary of state shall file the articles of revocation of dissolution of the LLC if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (c); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the corporation has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 13. Tennessee Code Annotated, Section 48-246-301, is amended by inserting the following language as a new subsection (c):

(c) The secretary of state shall file the certificate of authority of the foreign LLC if the secretary of state finds that the foreign LLC:

(1) Complies with the provisions of subsections (a) and (b); and

(2) That the application is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 14. Tennessee Code Annotated, Section 48-246-401(a), is amended by deleting the language “certificate of cancellation of authority” in the first sentence of the subsection and by substituting instead the language “cancellation of certificate of authority”.

SECTION 15. Tennessee Code Annotated, Section 48-246-401, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) The secretary of state shall file the cancellation of certificate of authority if the secretary of state finds that the cancellation of certificate of authority:

(1) Complies with the provisions of subsection (a); and

(2) Is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be

required if the foreign LLC indicates in the cancellation of certificate of authority that the foreign LLC is converting to another entity.

SECTION 16. Tennessee Code Annotated, Section 48-246-503(a), is amended by inserting the following language as a new subdivision (2) and by renumbering subsequent subdivisions accordingly:

(2) Submit to the secretary of state a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state;

SECTION 17. Tennessee Code Annotated, Section 48-246-505(a), is amended by deleting the language “certificate of cancellation of authority” and by substituting instead the language “cancellation of certificate of authority”.

SECTION 18. Tennessee Code Annotated, Section 48-246-505, is amended by inserting the following language as a new subsection (b) and by redesignating subsequent subsections accordingly:

(b) The secretary of state shall file the cancellation of certificate of authority of the foreign LLC if the secretary of state finds that the application:

(1) Complies with the provisions of subsection (a); and

(2) Is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 19. Tennessee Code Annotated, Section 48-249-602, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b) The secretary of state shall file the articles of termination of the LLC if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (a); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the LLC indicates in the articles of termination that the LLC is converting to another entity.

SECTION 20. Tennessee Code Annotated, Section 48-249-606(a), is amended by inserting the following language as a new subdivision (2) and by renumbering subsequent subdivisions accordingly:

(2) Submit to the secretary of state a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 21. Tennessee Code Annotated, Section 48-249-608(b), is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)

(1) The secretary of state shall file the articles of termination following administrative dissolution if the secretary of state finds that the articles:

(A) Comply with the provisions of subsection (a); and

(B) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

(2) Upon such filing, the existence of the LLC shall cease, except that the termination of LLC existence shall not take away or impair any remedy to or against the LLC or its members, directors, managers or officers for any right or claim existing or any liability incurred, prior to such termination. Any such action or proceeding by or against the LLC may be prosecuted or defended by the LLC



in its LLC name. The members, directors, managers or officers shall have the power to take such LLC or other action, as may be appropriate, to protect such remedy, right or claim.

SECTION 22. Tennessee Code Annotated, Section 48-249-612, is amended by inserting the following language as a new subsection (c):

(c) The secretary of state shall file the articles of termination if the secretary of state finds that the articles of termination:

(1) Comply with the provisions of subsection (b); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state.

SECTION 23. Tennessee Code Annotated, Section 48-249-904, is amended by inserting a new subsection (b) and by redesignating subsequent subsections accordingly:

(b) The secretary of state shall file the certificate of authority of the foreign LLC if the secretary of state finds that the articles:

(1) Comply with the provisions of subsection (a); and

(2) Are accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state

SECTION 24. Tennessee Code Annotated, Section 48-249-907(a), is amended by deleting the language prior to subdivision (1) in its entirety and by substituting instead the following:

A foreign LLC may cancel its certificate of authority by filing a cancellation of certificate of authority with the secretary of state accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports

and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the foreign LLC indicates in the cancellation of certificate of authority that the foreign LLC is converting to another entity. The cancellation of certificate of authority shall set forth:

SECTION 25. Tennessee Code Annotated, Section 48-249-910(b), is amended by deleting subdivision (1) and by substituting instead the following:

(1) If the secretary of state determines that the application:

(A) Is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state;

(B) Contains the information required by subsection (a), and that the information is correct, the secretary of state shall reinstate the certificate of authority, prepare a certificate that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate and serve a copy on the foreign LLC, except that the copy of the certificate may be sent by first class mail; and

SECTION 26. Tennessee Code Annotated, Section 48-249-912, is amended by deleting all of the language prior to subdivision (1) and by substituting instead the following:

When a foreign LLC that has had its certificate of authority revoked desires to withdraw from this state, it may do so without first being reinstated, by filing with the secretary of state a cancellation of certificate of authority following administrative revocation of the certificate of authority accompanied by a certificate issued by the commissioner of revenue certifying that the foreign LLC has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided,

however, that no such certification by the commissioner of revenue shall be required if the foreign LLC indicates in the cancellation of certificate of authority that the foreign LLC is converting to another entity. The cancellation of certificate of authority shall set forth:

SECTION 27. Tennessee Code Annotated, Section 61-1-1001(f)(1), is amended by deleting subdivision (B) in its entirety and by substituting instead the following:

(B) Accompanied by a certificate from the commissioner of revenue that the limited liability partnership has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the limited liability partnership indicates in the executed withdrawal statement that the limited liability partnership is converting to another entity; or

SECTION 28. Tennessee Code Annotated, Section 61-2-203, is amended by deleting subsections (c) and (d) and by substituting instead the following:

(c)

(1) The secretary of state shall file the certificate of cancellation if the secretary of state finds that the certificate of cancellation:

(A) Complies with the provisions of subsection (b); and

(B) Is accompanied by a certificate issued by the commissioner of revenue certifying that the limited partnership has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the limited partnership indicates in the certificate of cancellation that the limited partnership is converting to another entity.

(2) No cancellation shall be effective until the certificate of cancellation is filed by the secretary of state. The cancellation shall be effective either upon the date or time, as specified by the secretary of state, that the certificate of cancellation is filed by the secretary of state or at the future effective date or time set forth in the certificate of cancellation as provided in subdivision (b)(4).

SECTION 29. Tennessee Code Annotated, Section 61-2-906, is amended by deleting subsection (b) in its entirety and by substituting instead the following language:

(b) The secretary of state shall file the certificate of cancellation of registration if the secretary of state finds that the certificate of cancellation of registration:

(1) Complies with the provisions of subsection (a); and

(2) Is accompanied by a certificate issued by the commissioner of revenue certifying that the foreign limited partnership has properly filed all reports and paid all taxes and penalties required by the revenue laws of this state; provided, however, that no such certification by the commissioner of revenue shall be required if the foreign limited partnership indicates in the certificate of cancellation of registration that the foreign limited partnership is converting to another entity.

SECTION 30. This act shall take effect upon becoming a law, the public welfare requiring it.